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Transportation and Telecommunications Committee
February 23, 2015

[LB248 LB373 LB517]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, February 23, 2015, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB248, LB373, and LB517. Senators present: Jim Smith, Chairperson; Lydia Brasch, Vice Chairperson; Al Davis; Curt Friesen; Tommy Garrett; Beau McCoy; John Murante; and Les Seiler. Senators absent: None.

SENATOR SMITH: Good afternoon and welcome to the Transportation and Telecommunications Committee. I am Jim Smith and I am Chair of the committee. Though some of my colleagues will be joining us late, I'd like to introduce them. To the far left we have Senator Tommy Garrett representing Bellevue; next to Senator Garrett we will have Les Seiler, Senator Les Seiler from Hastings; and Senator Beau McCoy from Omaha. Senator McCoy is just now arriving. To the far right, we have Senator Curt Friesen from Henderson; next to Senator Friesen, Senator Al Davis, and then next to Senator Davis will be Senator John Murante. The Vice Chair of the committee is Senator Lydia Brasch from Bancroft. On my immediate right is Mike Hybl, legal counsel to the committee, and on my left is Paul Henderson, committee clerk. Pages with us today are J.T. Beck from Centreville, Virginia. J.T. is a senior at UNL, and Kelli Bowlin from Cody, Nebraska, and Kelli is a junior at UNL. We will be hearing the bills in the order listed on the agenda. Those wishing to testify on a bill should come to the front of the room and be ready to testify in order to keep the hearing moving along. If you are testifying, please complete the sign-in sheet so it is ready to hand to one of the pages when you approach the testifier table. And also for the record, at the beginning of your testimony, please both state and spell your name. Please keep your testimony concise and try not to repeat what has already been covered. We will use the light system today, a five minute time limit on testimony. The green light will come on wherever you bring your testimony and it will stay on for four minutes, then the amber light comes on for a minute, and then the red light...when the red light comes on if you have not completed your testimony, we'd ask that you just try to wrap that up. If you do not wish to testify but want to voice your support or opposition to a bill, you can indicate so on the sheet provided on the table as you came into the room. This will be part of the official record of the hearing. If you do not choose to testify, you may submit comments in writing and have them read into the official record. I ask that you please silence your cell phones. We are an electronics-equipped committee and information is provided electronically as well as in paper form to the committee members, therefore, you may see committee members referencing information on their electronic devices. I hope that you will be assured that your presence here today and your testimony are important to us and is critical to our state government. With that, we do have three hearing...three bills to be heard today and we will begin with LB248 to be introduced by Senator Sullivan. Welcome, Senator Sullivan.

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SENATOR SULLIVAN: (Exhibit 1) Thank you, Senator Smith, and thank you, members of the committee. I'm Kate Sullivan, K-a-t-e S-u-l-l-i-v-a-n, and I'm here today to introduce LB248. LB248 prohibits the operator of a school bus from using any interactive wireless communication device while the vehicle is in motion. The prohibition does not apply to a dispatch communication device. This issue was brought to me two years ago by a constituent. She was at the end of her rural driveway when a school bus went by. The bus driver's attention was not on the road and both hands were not on the steering wheel because the driver was holding something in his left hand and looking down on it. My constituent was within twenty feet of the bus on the driver's side. She could clearly see that the driver was not looking at the road. He did not make eye contact with her or give any indication that he had seen her at the end of her driveway. She was concerned because it appeared that the driver was looking at a cell phone, so she called the school district. When the superintendent called her back, she was told that school district policy allows bus drivers to use cell phones in an emergency and also as the stop watch to check their times on their routes. When she called the Department of Education, she was told that Rule 91 provides guidance to school districts. Rule 91 was revised several years ago to prohibit texting. Rule 91 also says if the use of a hand-held wireless communication device is necessary, the driver shall pull onto the shoulder of the road or a parking lot before using this device. It does not preclude the use of a two-way communication device. After further research, this constituent contacted my office. She wanted to know why Nebraska wasn't requiring school bus drivers to follow the U.S. Department of Transportation regulation that went into effect January 3 of 2012 which prohibited commercial drivers from using hand-held mobile phones while operating a commercial truck or bus. Approximately four million commercial drivers are affected by this regulation. She wanted to know why Nebraska allows drivers of school buses, which by the way are transporting some of our most precious cargo, our children, why they are allowed to use cell phones. Well, the plain answer is, it's our policy. We do not prohibit use of hand-held cell phones by school bus drivers. Perhaps we think common sense will prevail. There's also a misconception out there, too, that we've done a little research on, that a school bus is usually not a commercial vehicle, so the driver doesn't have to obey the no cell phone rule. Well, they are wrong. It took us several calls starting with the Federal Motor Carrier Safety Administration at the Department of Transportation. Their office is here in Lincoln. They in turn had to reach out to DMV and to the State Patrol. And the fact of the matter is, it does not matter that a school bus is not a commercial vehicle. A CDL is required if they drive a school bus with a total weight of 26,000 pounds, GFWR, (sic-GVWR), that's gross vehicle weight register, (sic-rating), or more, and carry 15 passengers or more, plus the driver. These drivers must obey the federal rules and regulations for CDL holders. They cannot use a hand-held mobile phone while operating that bus, but many do because our statutes are unclear. A CDL is not required to drive smaller school buses that weigh less than 26,000 pounds and carry 14 passengers, plus the driver. Nebraska schools have both large buses and small buses in their school bus fleets. The American School Bus Council states that while cell phones and other communication devices can play a crucial role in emergency situations, they should be used only when the bus is stopped and in a

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secure location, except in cases of extreme emergency. The National Transportation Safety Board recommends restricting the use of cell phones by school bus drivers and commercial bus drivers while operating buses carrying students. Let's face it, driving a school bus can be stressful. Keep in mind the average automobile is about five feet wide and weighs 2,200 pounds. On the other hand, the average school bus is eight feet wide, not counting mirrors, and 40 feet long and weighs between 20,000 and 40,000 pounds. Probably the most difficult part is wheel location. In a car, your front wheels are about three feet in front of you. In a school bus, your front wheels are three feet behind you and your rear wheels are thirty feet behind you. It's kind of like trying to drive a car while you're sitting on the front bumper. And you're driving this big unwieldy vehicle loaded with children who can be very noisy and distracting. The last thing a school bus driver needs to be doing is dialing, talking, or answering a cell phone while their bus is in motion. I'm not going to flood you with statistics. I know you receive plenty of data from safety groups on all aspects of driving. However, here are a few things to remember. The American School Bus Council and the National School Transportation Association have been calling for a ban on cell phone use by school bus operators for eight years. School buses are the biggest type of mass transit in the United States and provide nearly nine million student trips every year. Twenty states and the District of Columbia already ban cell phone use by school bus drivers. Thirteen states ban cell phone use by all drivers. Cell phone use distracts drivers, all drivers. Rather than a regulation recommending that a school bus driver pull over before using the cell phone, let's put it in statute so it's clear. As nationwide distracted driving statistics increase due to texting and cell phone use, it's time for Nebraska to statutorily ban the use of cell phones by school bus drivers when their vehicle is in motion. LB248 does exactly that. Our kids will be safer for it. I should mention at this point that the Nebraska State Patrol has requested an amendment to make sure the language on page 2, lines 19 and 20, matches the language used in Section 60-6,179.02. AM354 does just that and I'll pass that out to you right now. That concludes my testimony. Thank you for your time and interest. [LB248]

SENATOR SMITH: Thank you, Senator Sullivan, for your opening. Do we have questions from the committee? Senator Davis. [LB248]

SENATOR DAVIS: Thank you, Senator Smith, and thank you, Senator Sullivan, for bringing this bill. I'm really kind of shocked that it isn't already in the rules, but I just want to clarify that what you're trying to do would apply to everything, including those small vans, correct? [LB248]

SENATOR SULLIVAN: Yes. Yes, it would. [LB248]

SENATOR DAVIS: And private and public schools both? [LB248]

SENATOR SULLIVAN: Yes. [LB248]

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SENATOR DAVIS: Thank you. [LB248]

SENATOR SMITH: Additional questions from the committee? Seeing none, thank you. Are you... [LB248]

SENATOR SULLIVAN: I think I will be here for closing. We've got some things going on in Education right now, but I'll stay as long as I can. [LB248]

SENATOR SMITH: All right. Thank you, Senator. We now continue the hearing on LB248 with proponents, those wishing to testify in support of LB248. Welcome. [LB248]

JOHN BONAIUTO: Thank you, Senator Smith. Members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, representing the Nebraska Association of School Boards. And the School Board Association wants to be on record supporting Senator Sullivan's bill, LB248, believes this is a health and safety issue for students, and if this bill is passed and put into law, then the School Board Association would make sure that school boards had the proper policies to ensure that bus drivers did not use electronic devices unless they were stopped and pulled over on the side of the road and to further ensure students safety on that vehicle. With that, I will conclude my testimony and be happy to answer any questions. [LB248]

SENATOR SMITH: Thank you, Mr. Bonaiuto. Do we have questions? I see no questions. Thank you. [LB248]

JOHN BONAIUTO: Thank you. [LB248]

SENATOR SMITH: We continue with proponents, those wishing to testify in support of LB248. Welcome. [LB248]

VIRGINIA MOON: Thank you, Senator Smith, members of the committee. My name is Virginia, V-i-r-g-i-n-i-a, Moon, M-o-o-n, and I'm here representing the Nebraska Council of School Administrators. And we, too, would like to be on the record in support of this bill. I believe that probably many of the school districts already have a policy that prohibits the use of cell phones or other electronic devices while the bus is moving, but it would be good for this to be a statute that would support those policies across the state. With that, I'll conclude my testimony and be open for questions. [LB248]

SENATOR SMITH: Thank you. Do we have questions for Dr. Moon? Now, tell me again, who are you representing today? [LB248]

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VIRGINIA MOON: The Nebraska Council of School Administrators, NCSA. [LB248]

SENATOR SMITH: Okay. All right. Thank you. [LB248]

VIRGINIA MOON: Thank you. [LB248]

SENATOR SMITH: We continue with proponents, those wishing to testify in support of LB248. Seeing no further proponents, we now move to opponents, those wishing to testify in opposition to LB248. Seeing none, those wishing to testify in a neutral capacity on LB248. It's moving along pretty quickly, Senator Sullivan. You're welcome to close. [LB248]

SENATOR SULLIVAN: Just to reiterate what I had mentioned that I think there's a gray area that certainly cries out really to be clarified and I think LB248 accomplishes that. [LB248]

SENATOR SMITH: Thank you for bringing this bill to our attention. [LB248]

SENATOR SULLIVAN: Yes. [LB248]

SENATOR SMITH: Appreciate it very much. Any further questions for Senator Sullivan?
Senator Friesen. [LB248]

SENATOR FRIESEN: Thank you, Chairman Smith. Senator Sullivan, as I read through it here a little bit, I mean, it says it does not apply to a dispatch communication device. If schools ever use cell phones for dispatching, I don't know if that day will ever come or if some do already, would that exempt them from that then? [LB248]

SENATOR SULLIVAN: That's a good question. I would guess that if it comes to that, they would probably have to go to the route of maybe being hands free. [LB248]

SENATOR FRIESEN: Could...I mean, would that be in the best interest to spell that out now with a handsfree unit would be okay or in that... [LB248]

SENATOR SULLIVAN: I'll tell you this, we'll look into that because your point is well taken. [LB248]

SENATOR FRIESEN: Okay. Thank you. [LB248]

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SENATOR SMITH: Senator Davis. [LB248]

SENATOR DAVIS: Well, it was kind of along the same line. I was going to ask you about hand-helds because it's not really spelled out. But it talks about Section 60-470.02. Wasn't sure what that was, but...sort of feel like I'm back in education, so...(inaudible). [LB248]

SENATOR SULLIVAN: I can't tell you what that refers back to, but I guess the point is if there needs to be clarification on some of these things, we will certainly look into that at the advice to the committee. [LB248]

SENATOR DAVIS: Thank you. [LB248]

SENATOR SMITH: Further questions of Senator Sullivan? Seeing none, thank you for closing. [LB248]

SENATOR SULLIVAN: Thank you very much. [LB248]

SENATOR SMITH: (Exhibit 2) And that concludes the hearing on LB248. We now move to the hearing on LB373 and Senator Hilkemann will be introducing that bill. All right. We'll stand at ease for just a moment here. I'm certain Senator Hilkemann did not expect us to move so quickly on LB248. We appreciate your patience. We're just going to continue to stand by here for just a minute while they locate Senator Hilkemann. Yes, and while we are waiting, I failed to read into the record a letter in support of LB248 from Ann Parr on behalf of the Nebraska Insurance Information Service. Here he is, Mr. Hilkemann. Senator Hilkemann is making a grand entrance to the committee. (Laughter) We will now begin our hearing on LB373 and Senator Hilkemann is invited to open. [LB248]

SENATOR HILKEMANN: (Exhibit 1) Good afternoon, Senator Smith and members of the Transportation and Telecommunications Committee. I'm Robert Hilkemann, R-o-b-e-r-t H-i-l-k-e-m-a-n-n, of the 4th District, and I'm here to introduce LB373. LB373 would mandate the addition of lap-shoulder belts to school buses manufactured after the effective date of this bill's passage and purchased on or after January 1 of 2016. Now, this topic and subject has been heard by this committee several times, most recently in 2009. Last week, I was at a Chamber meeting in Omaha and I was sitting next to Clark Lauritzen, the president of First National Bank. He asked me, what measures are you bringing forth, and I said that one of the measures that I'm bringing forth is adding seat belts to school buses. And Clark said to me, he said, why has that not happened yet in Nebraska? Well, that's the response that I've heard from a lot of people that I've mentioned this bill to. In fact, the national survey says that 80 percent of parents wish that

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their children were riding in buses with seat belts. And I want to make it very clear, our school buses are safe. Going to school in a school bus is by far the safest way to get to school by a large margin. They're large. The drivers have to pass stringent driving and health tests. Their bright yellow color, their flashing lights make them a safe vehicle, and they have been constructed with what's called compartmentalization construction which makes them safer than most conveyances. What compartmentalization refers to is that closely-spaced, energy-absorbing area with these high-back seats which are padded so that in the case of a sudden impact, the children will come forward and their heads will hit on that padded area that they have on the bus that's there. However, while that's safe, adding the lap-shoulder belts would stop a lot of head injuries, bruising, and so forth, that occur with those type injuries. So, what I'm saying...I'm not saying that our buses are not safe. I believe that we can make them even safer if we add the lap-shoulder belts. Let me explain why I think we should take another look at this issue. First of all, if you haven't seen it, I ask all of you to go out and take a look at the school bus seat that we have out there in the Rotunda, and I hope you will be able to take a chance at that, to see that. If you haven't, it's going to be moved to my office after the...in the next day or two. Come by and take a look at it. I believe...I think that seeing is believing and you can see the nice new construction, the technology that we have, that the belts are flush with the back part of that seat, that a lot of the situations have been rectified with previous objections to seat belts. And you can also note how easy it is for the child to get that shoulder belt. It's easy to come up and down, so that little children can use that belt as well as older children. Secondly, I had my staff forward you an e-mail link from a ABC Nightline video and I hope you had a chance to look at it. If you haven't, we'll make sure that you get that one and we'll be sending you some more videos that were put out that I think seeing again is believing, and I think that you will see some of the studies that they have done show that this is an important thing that we do to show the safety of these new belts. I've also provided you a packet from other sources, from the National Health Highway Transportation Safety Administration. What they're doing now is actually reviewing kind of their longstanding position which has been to recommend school buses seats, but not mandating the placement of belts in school buses. Now, first of all, again, and I'm acknowledging that the construction of the buses with their...it makes them safe. But if you look at those videos, you can see that particularly on rear impact, front impact, how the children are held in the school bus seat better will prevent a lot of injuries. And one thing you need to take into consideration, the compartmentalization work that they...if those kids are turned a little bit or they're not sitting right down in the seat, the compartmentalization goes south. Being in the seat belt will definitely make a difference on that, and it will certainly make a difference as you'll see on the videos for rollover accidents, that could help. One of the objections that was used previous, reasons why we shouldn't have seat belts on school buses is that the belt itself could be used as a weapon. And they're looking at the old days, the old straps where they used to have the little strap with the metal bracket on it that you could actually throw around. If you see the new design, that can't happen. That retracts back into the seat, that you're not going to be able to take that buckle and throw that around and use that as a...as weapon. There have been some studies that with over

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700,000 kids riding, there's not been any reports of that buckle being used as a weapon. One of the reasons used for not doing this is that NHTSA has not mandated the use of belts, but they acknowledge that lap-shoulder belts will enhance bus safety. And again, as I say, they're reconsidering their whole position. Another argument used why we haven't put seat belts in before is that students simply won't wear the belts. Well, that's not true by the school districts that are presently doing it. Now, the school districts that presently have the seat belts say that there's at least a 90 percent compliance rate by the students themselves. And, you know, very few parents would ever consider driving in their car without their kids being buckled up. We've trained our kids to buckle up and kids will buckle up given that option. Another objection to putting school bus...or seat belts has been that it closes...or the capacity is reduced because at one time you could only put two belts in the seat. Well, as you can see now, we can...for three smaller children can ride in that seat belt, or that bus seat, and still be buckled up and two high school age kids can still continue to...so there is no loss of capacity when we add the school bus seat belts. Let's face it. One of the objections, of course, that we always have is that it costs more money. It does. About 6 to 10 percent more is the cost on a new bus to have them equipped with the lap-shoulder belts. Previous attempts at this legislation has always required retrofitting of buses. This is not a retrofitting bill. I'm asking this to go into effect for new buses that are purchased. Given the normal rotation of buses, it will take probably twelve years to get all the buses, maybe even as much as fifteen, to get the seat belts in it. So this will definitely...while it's an additional cost, when you consider lifetime of a bus at fifteen years, this is adding cents a day to have our kids safer in the seat belts. And if we have districts that decide, you know, this is really a good idea and parents start demanding it, these new seat belts can be retrofitted at a much lower cost than ever was the case before, so if they want to do it on their own, even though it's not mandated by the...so those are some of the reasons and objections that have been offered in the past, but what are the benefits. Well, thousands, and in these statistics you can find all sorts of statistics, but the part of the reasons is they throwed trucks and buses into the same one, but about seventeen to twenty-five thousand injuries occur every year to students that are involved in school bus accidents. The average number of deaths of kids actually riding in it, it's about seven a year. To the one student, or the family, that we can save the pain or the serious injury or death, these seat belts will definitely be priceless. The studies indicate that using lap seat belts could at least eliminate 50 percent of the injuries that we presently have in this. Well, there's always the question of lawsuits. How is this going to be perceived legally? Well, we've worked on that. Anytime there's an accident, a lawsuit is inevitable. What we've tried to do is to make this language that prevents any more liability for school districts with these present than if they were not in place. We...and we do ask in this bill that there be instruction to the students so that they know how to use those seat belts. You know, 5-year-old kids can...have iPads mastered a whole lot better than their parents, they can master these seat belts themselves as well. And a real final benefit, and you'll find this if you check on those videos, that comes along is that there is an improved discipline with the kids that are buckled in. You'll see on those videos that some of the drivers were a little bit skeptical about having their kids have to use these belts, but you'll see

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testimony of these drivers saying it makes my job so much easier that these kids are belted up. So I would ask you to look at that particular portion of this. When asking me to sponsor this bill, was brought to me, I asked the usual question, who is interested, why, when, what's the history, and so forth. And then I asked that same question that Clark Lauritzen said to me, why don't we have seat belts in school buses already? And that then, my research on this, you know, we've all seen the news stories about bullying that happens on buses and discipline problems, so I'll tell you what really was the trigger for me and it was a personal experience I had a few months ago with my grandchildren. When my three kids were young, I got a lot of gray hair and our kids, we didn't have to have them buckled in, we didn't have to have child seats, anything else like that. And my kids were pretty good, but any kind of a trip was...could be somewhat challenging with it. Well, in December of this year I had to ride with my grandchildren from Omaha to Chicago and they're aged two through eight years of age and I thought, this could be a real interesting travel. Well, I mean to tell you, those kids were buckled up in their seat...in their seat belts, in their safety seats, and I couldn't believe how much easier...I said to my wife, I said, wow. It makes a difference when these kids are buckled up, the same thing we'll see in our school buses down the line. So, I'm going to ask this committee to make a difference and advance LB373 to General File. Six states have already passed laws requiring bus safety belts, but these are all large population states so there's a large percentage of kids, and there's a lot of school districts, and there's some areas that have already done it without a mandate to come from it. So they're already getting the advantage of increased safety of a safety belt. There's going to be some testifiers follow me and tell you their own stories, some of them with a great deal of pain. I know that they wish that twenty years ago a legislative body would have said, let's start making school buses safer. So I ask you, are our kids worth a few cents a day? On those days when you take your kids to school, you wouldn't think about taking them to school without buckling them in. That's a mandate that we can all live with. So the kids who ride to school are just like my grandchildren, they're priceless. With that, I'd ask if there are any questions that you have and thank you for your attention. [LB373]

SENATOR SMITH: Thank you, Senator Hilkemann, for your opening. Do we have questions from the committee? Senator Brasch. [LB373]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Senator Hilkemann, for your very thoughtful bill. I do have a couple of questions. You had said that six states had already... [LB373]

SENATOR HILKEMANN: That's correct. [LB373]

SENATOR BRASCH: ...and are there any around Nebraska? [LB373]

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SENATOR HILKEMANN: Texas is the closest. [LB373]

SENATOR BRASCH: Texas is the closest. Okay. And if they...the school district wanted to implement this today, could they do it without the law? Is there anything against the law to have it in a school bus now? [LB373]

SENATOR HILKEMANN: There is not to my knowledge. [LB373]

SENATOR BRASCH: There is now...oh, there is not. [LB373]

SENATOR HILKEMANN: There is not, right. [LB373]

SENATOR BRASCH: Okay. So they could if they're up to buying a school bus, they can just put that as a part of their bids back, I imagine. Is that correct? [LB373]

SENATOR HILKEMANN: That's correct, to my knowledge. [LB373]

SENATOR BRASCH: Do you know how many manufacturers there are? Do all school bus manufacturers have the optional equipment or is there a...to have a seat belt, or...? [LB373]

SENATOR HILKEMANN: There are several manufacturers that make the seat belts. [LB373]

SENATOR BRASCH: There are several. Okay. So it's not just one bus or none? [LB373]

SENATOR HILKEMANN: That's correct. [LB373]

SENATOR BRASCH: That makes it very competitive, correct? [LB373]

SENATOR HILKEMANN: That's correct. [LB373]

SENATOR BRASCH: All right. Thank you. I have no other questions. [LB373]

SENATOR SMITH: Senator Davis. [LB373]

SENATOR DAVIS: Thank you, Senator Smith. A couple of questions, Senator Hilkemann. I appreciate you bringing the bill. The first one is, sometimes buses get, you know, in an accident

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and catch on fire and I think one of the documents that you provided talks about that. How easy are these belts to get unloose? I mean, I don't...would certainly not want children burning up on that ...? [LB373]

SENATOR HILKEMANN: That's right. Well, this would have to go back to that early training where we do require...that we require that they be taught how to do that. They're easy release. I don't know if you've had a chance to look at them. They're relatively easy release for the child to...should be able to get out of them without danger. They're used to getting out of...a lot of times they'll get out of your...at least if they're like my grandkids, they're out of their seat as soon as the car stops, so. [LB373]

SENATOR DAVIS: So, as to the training that would go into that, just kind of thinking that through, you know, you could have rollovers and things like that where the kids are stuck up on top of the...well, if it rolled over on its top, they'd be stuck up on the top. The training, is that a part of the...if you were to pass this, would you...I would think you might want some statutory language about training. [LB373]

SENATOR HILKEMANN: We do have that language in the bill. [LB373]

SENATOR DAVIS: You do. Okay. I guess the other concern I wondered about, I think there was a bus that ended up in the river over here by Omaha some years ago. Is that at all something to worry about? You know, I mean, there's trade-offs, obviously, but... [LB373]

SENATOR HILKEMANN: That's correct. [LB373]

SENATOR DAVIS: ...drowning, or anything, I mean, this is a release issue, of course, again. But I mean, I think it...I've always thought it made sense. I remember some years ago we were going to buy a bus at Hyannis and it was going to have to retrofitted and it was going to be quite expensive, much more than this, which is why we didn't do it, but it's always made sense to me. [LB373]

SENATOR SMITH: Senator Seiler. [LB373]

SENATOR SEILER: I have a hard time with the one aspect of your bill. We're going to require manufactured after 2016 to have seat belts. I'm wondering why we shouldn't have a retrofit deadline. [LB373]

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SENATOR HILKEMANN: Well, I have to say that some states have added that. I'm trying to make this as... [LB373]

SENATOR SEILER: Because here's why. If there's five buses that are purchased after 2016 and ten that aren't, and the one that hasn't been retrofitted has an accident and the children are beat up pretty bad, your lawsuits are guaranteed because if you'd have had the seat belts, you wouldn't have had the injuries. [LB373]

SENATOR HILKEMANN: One of the things that the manufacturer of the seat belts, at least the one that is on display, says that that is one of the real advantages that new designs, that they have, is that they only simply have to put a new back on that instead of having to change the entire seat because that seat belt mechanism is completely encased within that seat. [LB373]

SENATOR SEILER: But you're talking five thousand to ten thousand at the most per bus. [LB373]

SENATOR HILKEMANN: That's correct. [LB373]

SENATOR SEILER: And that doesn't seem like very much money to save kids' lives. [LB373]

SENATOR HILKEMANN: Senator, it's not much money to save one kid's life. I would agree with you 100 percent on that. [LB373]

SENATOR SEILER: Thank you. That's all I have. [LB373]

SENATOR SMITH: Let me follow up on the question that Senator Seiler just had. You have language on page 4 of the green copy that basically says nothing in this section shall be construed to increase or decrease the liability of the school district whether or not the child wears the seat belt. And then farther down as to whether or not the school bus is equipped because you're...again, you're looking at anything manufactured after 2016. Have you had counsel on this particular language as to whether it actually would hold up? [LB373]

SENATOR HILKEMANN: Well, you must have been on the phone with me last night when my daughter and I were talking about that. She's an attorney and she said, dad, that's...there's an issue there that could be raised on that, but I'm going to refer to...we have some legal persons coming after me, and possibly they can answer that question better for you than I can. [LB373]

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SENATOR SMITH: I assure you, she did not call me and tell me to ask you that question. (Laughter) All right. Any additional questions for Senator Hilkemann? Seeing none. Thank you for opening. Are you going to stay for closing? [LB373]

SENATOR HILKEMANN: I am. [LB373]

SENATOR SMITH: All right. Thank you. We will now move to proponents, those wishing to testify in support for LB373. Welcome. [LB373]

DAWN PRESCOTT: (Exhibit 2) My name is Dawn Prescott, D-a-w-n P-r-e-s-c-o-t-t of Fremont, Nebraska. Thank you for affording me this opportunity to share my story with you today. I have been a classroom teacher for twenty years. I deeply care about kids. I'm also a mother. I'm also a school bus crash survivor, so I speak from firsthand experience. My husband and I lost our 14-year-old son, Benjamin, in a school bus accident in October, 2001. As a parent who takes the responsibility of keeping children safe very seriously, I'm compelled to speak on my son's behalf today, and on behalf of all children in our state who trust us as adults to keep them secure and safe. On that Saturday in 2001, I climbed aboard a school bus with Ben. I was a parent-chaperone for his high school band traveling for a marching competition in Omaha. Little did I know, I would never again look into his smiling eyes, hear his voice, or be able to hold him close. That afternoon as we headed home, the school bus we were riding in careened off a bridge and plunged 60 feet into a creek bed. It's difficult to put into words, but one thing is sure, I survived because I subconsciously reached up and grabbed onto the overhead luggage rack as the bus plummeted off the bridge. I remained conscious through the accident because I clung to that luggage rack. After the impact, all I could think about was getting to my son at the front of the bus. My seatmate and friend, another band mom, lay dead in the aisle. Students were lying everywhere, having been tossed violently inside the bus when it landed. Bodies impacted bodies and lay in tangled heaps in the aisles and on the side of the bus, which was now the floor. I climbed over other students desperately crying out for help, other people's children, who were struggling to breathe and screaming to get free. When I got to Benjamin, he lay motionless, his body on top of his friend. As I climbed out of the bus behind rescuers carrying my son, their attempts at CPR failed. My son was gone. The bus driver that day was the only person on the bus with the option to buckle up. While the unbelted passengers continued moving after the crash, only stopping upon impact with a seat, the bus's interior, the ceiling, or another body, the bus driver remained secure. While others were flying around like human pinballs, the driver stayed belted. He's alive today. Our children need and desire consistency as they grow up, especially when forming healthy habits. We send an inconsistent message to our children when law requires us to make sure they wear seat belts in the car and even on an airplane, but we put them on a school bus with no safety belts. As parents, we have a responsibility to ensure that our children are placed in the safest environments we can provide. You will undoubtedly hear arguments today that urge you not to act on this bill, but I challenge you to think about the

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motivation for such oppositional testimony. Ask yourself, why would anyone be against a bill that protects children and keeps them safe? I'll tell you why. Because for them, our children are not their top priority. Previous opponents have argued that, quote, equipping buses with seat belts, besides creating more expense, also creates an additional duty for the driver to have to worry about, making sure students are buckled up and making sure they aren't using seat belts as weapons. If there's an accident and a student isn't buckled in, are we going to get sued because the driver had 60 kids on a bus and one kid didn't buckle up? End quote. Did you catch that? They argue it costs more. To be honest, it adds seven to ten thousand dollars to the cost of a brand new bus. On average, school buses are replaced every twelve to seventeen years, and LB373 would only require lap and shoulder belts on all new buses purchased after January 1st of 2016. A recently retired Nebraska superintendent was quoted on this topic, saying this: If you can provide an additional measure of protection and safety, I can't see a reason why you wouldn't. The cost is not prohibitive. Number two. Opponents argue that the bus driver will have to worry about students using the safety belts. In fact, LB373 specifically addresses this. There is no increased liability for the bus driver in a bus with seat belts nor is there increased liability for school districts, although I'm sure that the bus driver buckles up every time. Number three. They argue seat belts can become weapons. This potential behavior problem has never been documented and it serves only as a convenient diversion from transportation safety. Lastly, opponents of lap and shoulder belts like to ask these hypothetical questions: What if a school bus gets stuck on railroad tracks or lands in a river? How can the bus driver be sure all children can get out of their seat belts? It's already law that all small school buses must be equipped with lap and shoulder belts, most often transporting preschool children and students with special needs. If any child might have trouble getting out of a seat belt, wouldn't it be a preschooler or a mentally challenged student? A conscious child who is securely belted has much better odds to survive an accident. Lap and shoulder belt technology is state of the art, and readily available and affordable, and with recent innovations doesn't even decrease bus capacity. It is not a matter of "if" another school bus accident occurs, but "when." We owe it to our children to make their transportation as safe as possible. My husband and I will live forever with the memory of losing our son while riding on a school bus without seat belts. We made that mistake once, and our vibrant and precious son's life was snuffed out forever. Please vote to advance LB373 to the General File immediately. We must act to make school buses safer and the time is now. Would lap and shoulder belts have made a difference? Just ask me. Thank you. [LB373]

SENATOR SMITH: Ms. Prescott, on behalf of the committee, we're sorry for your loss. [LB373]

DAWN PRESCOTT: Thank you. [LB373]

SENATOR SMITH: And thank you for coming and sharing your story and for telling us about Benjamin. Do we have questions from the committee for Ms. Prescott? I see none. Thank you very much. We continue with proponents, those wishing to testify in support of LB373. [LB373]

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MARK RICHARDSON: Good afternoon. My name is Mark Richardson. I'm a trial attorney here in Lincoln with Rembolt Ludtke law firm. I'm here testifying today on behalf of the Nebraska Association of Trial Attorneys. [LB373]

SENATOR SMITH: Please spell your name for us. [LB373]

MARK RICHARDSON: R-i-c-h-a-r-d-s-o-n. [LB373]

SENATOR SMITH: Thank you. [LB373]

MARK RICHARDSON: The Nebraska Association of Trial Attorneys supports LB373 as a practical commonsense protection for every child upon a school bus here in Nebraska. We are well aware of the fact that if you're comparing a school bus to a typical vehicle on the road, school buses as they currently exist or currently constituted are much safer than your average vehicle, but that's not the point of this bill. The point of this bill is to acknowledge and make sure that our school buses are as safe as they can possibly be, and providing seat belts for our children is what can be done practically and at very minimal cost to ensure our children are safe. I have had the very humbling experience of representing families that have had children injured in school buses...in school bus crashes. I've seen photos and I've heard firsthand accounts from kids 10 years old and younger of being thrown around a bus, shoes coming off in accidents or not knowing how they ever came off, just general chaos in the aftermath of a school bus crash. We've seen injuries from scrapes and cuts and concussions to broken bones, catastrophic injuries, and even death. I've heard some testimony today that just reinforces the research that we've seen which says, this compartmentalization is great when it is a back...a rear end or a frontal collision, but if it's a rollover or a side impact collision, compartmentalization does next to nothing. Seat belts will be protective in those instances. Uninjured children will have a better chance of getting off of a bus than injured children regardless of whether they have a seat belt on or not. If they have the seat belt on, they're less likely to be injured and will have a better chance of getting off the school bus. In every personal injury lawsuit I've ever been involved in, we've always been asked whether or not our client was wearing their seat belt, and if they're not, that gets used against them as a failure to mitigate their damages. The only time that doesn't happen is in a school bus case because seat belts aren't available and children aren't afforded the opportunity to mitigate the damages that would happen in a crash. Our Legislature has the ability to provide proven safety equipment to our children. The Nebraska Association of Trial Attorneys joins organizations like the American Academy of Pediatrics to support seat belts as commonsense requirements in our school buses. We have a practical opportunity to make school buses safer than they currently are. We should take advantage of every such opportunity. Thank you. [LB373]

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SENATOR SMITH: Thank you, Mr. Richardson. Senator Seiler. [LB373]

SENATOR SEILER: Paragraph 6 of this Section 3, on...I don't have the page, but it's right at the end, it says that they are not...the school bus, or the school district is not increasing or decreasing its liability. To me as a trial lawyer, that just doesn't seem to fly. As the policymakers, we're now addressing it. Are we going to let it be up to a roll of the dice of which bus you get on, the one with seat belts or the one that doesn't? That doesn't make sense to me. Tell me about it. [LB373]

MARK RICHARDSON: In a perfect world we would be retrofitting every school bus as well. We are trying to get done what we can to push through this legislation. We are aware that in past attempts to get this legislation and make these school buses safer, it's the retrofitting and the cost of the retrofitting that has been a major hang-up in getting any sort of seat belts...any sort of seat belt requirement on school buses. The purpose...the way that paragraph 6 is currently constituted is to say the attorney is not going to be able to utilize this specific statute and say, hey, look, you had an obligation for your new buses, you should have had one for your old buses as well, look, you should have been able to do it. That's no different than the argument today which would be...potentially a trial attorney could today come into the courtroom and say, hey, school district, you knew of or you should have known that seat belts were safer and you should have had them on buses. The way these paragraphs are constructed is to say, they're not going to be able to come in and use this specific statute and say for their past school buses that weren't, this somehow elevated that duty. [LB373]

SENATOR SEILER: It just seems to me that if...I'll use an example. If the football team needed all new helmets to prevent concussions, \$5,000 would not be a big deal. [LB373]

MARK RICHARDSON: And if we can get the support to pass legislation to retrofit school buses, that certainly would be on the table. [LB373]

SENATOR SEILER: Okay. Thank you. [LB373]

SENATOR SMITH: Further questions for Mr. Richardson? Seeing none, thank you. [LB373]

MARK RICHARDSON: Thank you. [LB373]

SENATOR SMITH: Next proponent, supporter of LB373. Welcome. [LB373]

CHRISTOPHER WELSH: Good afternoon. Christopher Welsh from Omaha on behalf of the Nebraska Association of Trial Attorneys. [LB373]

SENATOR SMITH: Spell your name for me, please. [LB373]

CHRISTOPHER WELSH: C-h-r-i-s-t-o-p-h-e-r W-e-l-s-h. I'm the current president of the Nebraska Association of Trial Lawyers and this is an opportunity for this committee to be part of what's going around in this country. There's six states that have passed similar legislation that wants to provide the safest...not just a safe school bus, but the safest available school bus they can provide for their children. Let's not miss on this opportunity. This is a chance that we can pass a law to protect our children. As a father of three, last Friday I was talking to my son on the way to school, who is 10 years old, and he said, dad, why don't you have to wear a seat belt on a bus? And I said, well, because there aren't seat belts on a bus, it's not the law. One thing I think people are getting confused, this compartmentalization protects against frontal impact. In every single accident, there are two injuries. There's the injury that happens when the vehicle is initially struck by another vehicle or object, and then what your body does inside of the vehicle. The compartmentalization only protects against frontal impact. But one thing I think what's misleading is, is it doesn't protect you completely like a seat belt would. That energy when your face or your body goes into the seat in front of you, it's got to go somewhere. It's going into that seat and it's going into that child's face and body. This law will change that. It will limit the number of injuries. If one person gets injured in a frontal impact where there's minor property damage, that child if they get hurt, they're going to go to the emergency room and they're going to incur medical expenses in excess of \$10,000. And if it's \$6,000 to put safety belts on a bus to prevent that injury, then we should do that. That's what we should do, not only as lawmakers, but as parents. Everything we do is to provide safety for our children. It starts from the moment as a parent that you go home from the hospital. You have to make sure that you have a proper car seat for your child. Our kids are conditioned at an early age that wearing seat belts, and anything to do with safety, it's safety first, safety first. This is your opportunity. Let's advance this bill. Let's not sit on the sideline. Let's be proactive like Texas, Florida, and California and the other states. Let's not be here ten years from now in the minority in deciding let's pass it because there's been more Benjamins that have passed away. We can prevent injuries like that and we should do so. Thank you. [LB373]

SENATOR SMITH: Thank you, Mr. Welsh. Senator Davis. [LB373]

SENATOR DAVIS: A couple of questions. Thank you, Senator Smith and thank you for coming, Mr. Welsh. Do you know in these other states was this done in a retroactive manner or was it a...I mean, not retroactive, but when the bill passed did they have to retrofit all the buses, or is it installed in a gradual basis like this bill? [LB373]

CHRISTOPHER WELSH: I think there's a combination of the two. And I think that one of the problems, and it's just like we've heard in the past when this bill has come forth, its cost is an

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issue. And I think in a perfect world, and maybe the committee wants to amend this and put it on the floor, that it would be retroactive because I agree with Senator Seiler that it doesn't make sense, what if you're the unlucky child or family that son or daughter is on the bus that wasn't brand new and had seat belts. Cost shouldn't be a concern when you're talking about a child's life, especially when you're talking about only \$6,000. [LB373]

SENATOR DAVIS: I think I've got another question, but just give me a minute if somebody else has one. [LB373]

CHRISTOPHER WELSH: Okay. [LB373]

SENATOR SMITH: Senator Seiler. [LB373]

SENATOR SEILER: I just have a statement. I'm the son of a twenty-three year veteran school bus driver. Crossed 281, or 81 four different times and the railroad about six times every day and I always feared the phone call that said he's been in a crash. Never happened, but it just seems to me that going back to what I said, we've got to retrofit these vehicles and I'd be in favor of your bill then. [LB373]

CHRISTOPHER WELSH: And I think that would be an excellent idea, but if that's going to get in the way of getting this passed the way it is, I would prefer getting something, some law passed to the floor. [LB373]

SENATOR SMITH: Senator Davis. [LB373]

SENATOR DAVIS: Thank you. I just...it finally came to me, it took a minute. But, so we talked a little bit about the training of the bus driver and training those children. And as a trial attorney, how big a deal is that? [LB373]

CHRISTOPHER WELSH: Well, I think that anytime... [LB373]

SENATOR DAVIS: We get the funds...we get the seat belts in place, but then if the training doesn't take place and there's an accident, as a trial attorney, how are you going to address that? [LB373]

CHRISTOPHER WELSH: Well, I think that's something that's always going to be addressed is training. That's something, and we want training if this bill is going to advance. Just like with

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LB248, I didn't see any opponents that came and sat in this chair that were against the distraction. With proper training, seat belts, children will be in their seats, there will be discipline, there will be less distraction on that bus driver, it will eliminate accidents. Distractions alone. One of the number one cause of accidents is distractions. Whatever form you want to imagine, it's distracted driving. It's not drunk driving, it's not cell phone driving, it's just any form of distraction. And with proper training, and if this bill advances, whether you want to retroactive for fitting or not, or keep it the way it currently is, it's going to prevent injuries and accidents. [LB373]

SENATOR DAVIS: Thank you. [LB373]

SENATOR SMITH: Senator Friesen. [LB373]

SENATOR FRIESEN: Thank you, Chairman Smith. Mr. Welsh, as a trial attorney, you keep talking about the incidents of accidents and what all happened. So, my question would be is if they do put seat belts in and they do have the training but you've got some kids who decided not to wear the seat belt, and there was an accident, how would you treat...you said earlier in a statement, or somebody did, that they would be treated differently because they contributed to their injury at that point by not wearing the seat belt. Is that...? [LB373]

CHRISTOPHER WELSH: Well, currently the law in Nebraska if you're not wearing a seat belt, a jury can consider that and there's a 5 percent reduction in your damages. And it's something that's always discussed whether in the course of litigation or in prelitigation, if you were wearing your seat belt or not. And so then a question comes into play, the fact that you weren't wearing your seat belt, did that enhance your injuries? Would your injuries have been prevented? And that's stuff that's decided by experts. You need expert testimony sometimes to determine those facts. And it's on a fact by fact basis. [LB373]

SENATOR FRIESEN: As a trial attorney, if there were some kids not wearing the seat belt, would you tend to blame the school district then for not having proper education and hold them more liable or how would you address that? [LB373]

CHRISTOPHER WELSH: Well, I think, again it goes back to the facts. You know, a lot of school buses now have video cameras. You know, you get into questions about what training was provided. You know, why weren't they wearing a seat belt? But I think that the studies are showing that school districts in states that have implemented this type of law that students are wearing their seat belts. I mean, it's something that kids just now have grown up with. They buckle up. It's not like something that my dad grew up with or even I grew up with. We wear seat belts. [LB373]

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SENATOR FRIESEN: Okay. Thank you. [LB373]

SENATOR SMITH: I see no additional questions. Thank you, Mr. Welsh, for your testimony. [LB373]

CHRISTOPHER WELSH: Thank you. [LB373]

SENATOR SMITH: (Exhibits 3 and 4) We continue with proponents, those wishing to testify in support of LB373. Seeing no further proponents. We do have two letters for the record in support of LB373: Debbie Von Seggern on behalf of the Nebraska Emergency Medical Services Association, and Kristin Mayleben-Flott on behalf of the Nebraska Planning Council on Developmental Disabilities. We now go to opponents, those wishing to testify in opposition to LB373. Welcome. [LB373]

JOHN BONAIUTO: (Exhibit 5) Thank you, Senator Smith. Senator Smith, members of the committee, John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, representing the Nebraska Association of School Boards, testifying in opposition to LB373. I also have a little piece of research from the National Conference of State Legislatures, NCSL, that I'd like to have given to the committee and entered into the record. First of all, I want to say up-front, the opposition of school boards has nothing to do with cost. This is not about how much will it cost to retrofit, how much will it cost to put seat belts on buses, and the opposition of school boards has nothing to do with the fact that school boards do not care about the safety of children that ride on the school buses and are in their custody in public schools. The school bus is not the family car, it's not an SUV, it's not a van, it is still considered one of the safest vehicles on the road, and the issue of compartmentalization is still valid as far as the safety of children. And the opposition to this bill is that the research by the experts does not support seat belts on school buses. If you look at the latest research from the National Highway Traffic Safety Administration, the National Transportation Safety Board, they don't say, well, seat belts couldn't be added, they just do not recommend or mandate that seat belts should be added because they do not have the data or the research that would indicate that the seat belts are going to make these buses any safer. Matter of fact, some of the research indicates that depending on the accident, seat belts will create a whole different series of injuries of students on the school bus. I would say that these experts have looked at different size buses and yes, for buses that are under 10,000 pounds, all of those vehicles must be equipped with seat belts and the seat belts used. And so, at the point that these experts that regulate the manufacture of school buses indicate that seat belts should be on every bus, that's when school boards are going to say, we should do this, it should be done, and it should be done uniformly. But at this point, we do not believe the research is there to indicate that this is the right approach. As a matter of fact, the University of Transportation Center for Alabama did a three-year pilot at a large expense on capacity, seat belts, students wearing seat

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belts, the percentage of students that actually wore the belts when they were available, interesting reading. Way too much...way too many statistics but even at that point, this group said the school buses without doing anything are still the safest vehicles that are on the road. With that, I'm going to conclude my testimony and be happy to answer any questions. [LB373]

SENATOR SMITH: Thank you, Mr. Bonaiuto. Questions? Senator Davis and then Senator Brasch. [LB373]

SENATOR DAVIS: Thank you, Mr. Bonaiuto. Thank you, Chairman Smith. I guess I just have to say, we just heard from Ms. Prescott about that horrible crash that all of us remember very well. [LB373]

JOHN BONAIUTO: Very. [LB373]

SENATOR DAVIS: And I imagine that's a rare occurrence, Mr. Bonaiuto, but it seemed to me that that is the perfect case of why we need them. [LB373]

JOHN BONAIUTO: Senator, I appreciate what you're saying. And again, I don't know if seat belts would have made a difference or if it would have...I don't know what the right answer is, I'm sorry. [LB373]

SENATOR DAVIS: Thank you. [LB373]

SENATOR SMITH: Senator Seiler, oh, I'm sorry, let's go to Senator Brasch and then Senator Seiler. [LB373]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Mr. Bonaiuto, for your testimony and your concern here. I'm trying to recall how school buses are managed. Are they through the Department of Education or is every school district independently contract...what is the majority or the scenarios, how is that done? [LB373]

JOHN BONAIUTO: We have items in statute. The Department of Education is involved. Highway Patrol in inspecting buses are involved, and this group, the National Transportation Safety Administration definitely involved in when boards spec and buy new buses. So there's a combination of districts...districts own buses, they're districts that contract for bus service in the metro area. I know that there are large contractors that provide bus service, so it's a mixture. [LB373]

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SENATOR BRASCH: And which is the majority? Is it contractor or versus privately owned by the district? [LB373]

JOHN BONAIUTO: I think the majority of the school districts across the state own their buses. [LB373]

SENATOR BRASCH: They do own their own. [LB373]

JOHN BONAIUTO: Yes, Senator. [LB373]

SENATOR BRASCH: And then I'm curious on...and you may be familiar with this too, in the legislation it says that any increase in spending by the school districts for buses or transportation on the school buses will increase needs in the state aid formula and will increase state aid two years after the spending increase occurs. Now, when the independently owned or the contracted school buses, I imagine this will happen sporadically, not all at one time, correct? [LB373]

JOHN BONAIUTO: That is correct, Senator. And so, if you own your bus and in this particular instance the way the bill is written without an amendment to do any retrofitting, if a district owned buses and decided that they were going to buy a new bus, inspect a new bus, that cost depending on how that cost was incurred by the district and if it was a general operating cost, and if the district were part of the equalization formula. If it was a nonequalized district, it would have no impact at all. That could be an additional cost for the state in increasing the amount of money that would go into the formula. With contract buses, I think the cost would probably be passed on to the district in the form of whatever the cost to operate those buses are for the school district. And that would be a general operating cost. And again, if a district was equalized and in the formula, it could then claim that as a need. [LB373]

SENATOR BRASCH: As a need. Very good. I have no other questions. Thank you. [LB373]

SENATOR SMITH: Senator Seiler. [LB373]

SENATOR SEILER: I noticed in most of the material they talk about children's death, but you and I both know that a school bus without...slams on its butt, brakes to miss something, deer in the road, kids come tumbling up and hit their face on the seat in front of them. How much...do we have any statistics out there, John, that shows the injuries to the face, the nose? I know why they're raising it from 20 inches to 24 so they hit the pad, but that pad's not that soft. So I'm curious about, you know, replacing the nose...from a broken nose, cheek bone, eye bone, brain, concussions, things like that. Did you see any statistics on that when you were...? [LB373]

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JOHN BONAIUTO: Senator, I did not. And I know the School Board Association keeps a lot of data on various things. And...but I...that is an area where...I know the association doesn't have that information and I did not read...and anything in the research I looked for and I may have not looked in that particular category. I was looking more for the research that talked specifically about seat belts. [LB373]

SENATOR SEILER: Well, the death is obvious. It's the reporting factor of the small injuries that could have been prevented by the seat belts. [LB373]

JOHN BONAIUTO: Yeah, small, small, and Senator Hilkemann even talked about that. The small number of deaths nationally did occur. Some of the research said six, some said seven, and you're talking about twenty-three and a fraction million students traveling billions of miles. Interestingly enough, in reading the research, there are more deaths annually when students are boarding or getting off of the school bus. They happen at the school bus site, not on the school bus, but as they... [LB373]

SENATOR SEILER: They probably get that on the playground, too, but that's not the issue before us. [LB373]

JOHN BONAIUTO: No, not at all. [LB373]

SENATOR SEILER: The issue that I'd like to know is how many of them got seriously injured but not reported as a death. [LB373]

JOHN BONAIUTO: And I will check if the Department of Education has anything on that, Senator. [LB373]

SENATOR SEILER: Thank you. [LB373]

SENATOR SMITH: One more question, Mr. Bonaiuto. Senator Murante. [LB373]

SENATOR MURANTE: Thank you, Mr. Bonaiuto, for coming down and thank you, Senator Smith. A couple of questions. First, do any school districts in the state of Nebraska right now implement district-wide seat belts in all of the buses in their district? [LB373]

JOHN BONAIUTO: I am aware of none, Senator. [LB373]

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SENATOR MURANTE: What is the school districts' rationale for not implementing that policy? [LB373]

JOHN BONAIUTO: Again, it goes back to the National Transportation Safety Administration buses. This is the group that regulates how buses are constructed. The manufacturers go to this group and say, what do we have to have on a large yellow school bus? Stop sign, the lights, all of that material is regulated and I believe that that's the reason. If it were regulated and this group said you need to order buses with seat belts, boards would do it in a heartbeat. [LB373]

SENATOR MURANTE: And is it your opinion that seat belts on school buses do not make the school buses safer? [LB373]

JOHN BONAIUTO: I don't have anything that would give me that indication one way or the other. I... [LB373]

SENATOR MURANTE: So you're saying the data is not...the data doesn't exist or that the data that exists is inconclusive? [LB373]

JOHN BONAIUTO: The data that exists is inconclusive. [LB373]

SENATOR MURANTE: Okay. And I have seen now that there are different requirements for plus or minus 10,000 pounds of a vehicle. [LB373]

JOHN BONAIUTO: Yes. [LB373]

SENATOR MURANTE: What's the significance of 10,000 pounds? Why that? [LB373]

JOHN BONAIUTO: These large yellow buses, the mass of the bus itself and the way it's constructed, the bus is constructed to absorb a certain amount of an impact and then the seat height and that compartmentalization is...it has an efficiency in that size bus that is not available or attained in the smaller vehicles. And so, that's why I say, the groups that look at this, when they study it and get the right information, they make changes. And they just haven't had the type of conclusive data that would cause them to say, the large yellow buses should all be equipped with seat belts. [LB373]

SENATOR MURANTE: Okay. Thank you very much. [LB373]

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SENATOR SMITH: Thank you, Mr. Bonaiuto. Oh, one more question. Senator Friesen. [LB373]

SENATOR FRIESEN: Thank you, Chairman Smith. Could you tell us how many school buses operate in Nebraska? [LB373]

JOHN BONAIUTO: Oh, boy. I cannot. I can get that figure, but I do not have that piece of... [LB373]

SENATOR FRIESEN: I guess I'm looking for the number of larger buses that would not require a seat belt at this time, not the smaller vans and... [LB373]

JOHN BONAIUTO: You're asking if, do...are there the 10,000 pound, something below the big yellow bus. All of the buses are going to be yellow. Some are going to be smaller buses that would have seat belts. [LB373]

SENATOR FRIESEN: Right. Some, I take it are required right now to have seat belts. I don't really want that number. I would like the number that do not have seat belts. [LB373]

JOHN BONAIUTO: The big yellow bus numbers. Senator, I will find that out. [LB373]

SENATOR FRIESEN: Thank you. [LB373]

SENATOR SMITH: All right. Thank you. We continue with opponents, those wishing to testify in opposition to LB373. Welcome. [LB373]

RICH CASEY: (Exhibit 6) Thank you. Good afternoon, Senators. My name is Rich, R-i-c-h Casey, C-a-s-e-y. This afternoon, I am representing Bellevue Public Schools where I'm the transportation director. I'm also speaking on behalf of the Nebraska School Transportation Association, NSTA. And NSTA is an association of transportation directors, supervisors, trainers, drivers, vendors who function inside the state of Nebraska. One of the NSTA's primary goals is to advocate for the safest means of transportation for all school students in the state of Nebraska. Although nothing can be done to negate the incredible tragedy and loss when a child was injured in a vehicle accident, and certainly there's no dollar amount that can be placed on a child's life...on a child's life. This afternoon, I would respectfully ask you to consider the facts as you weigh the issue of seat belts on school buses. As was previously mentioned, all school buses weighing less than 10,000 pounds are required to have seat belts for all occupants. These buses carry fewer passengers, typically in the state of Nebraska anyhow, these are typically transporting students with disabilities. They're smaller and they're lighter. The current system of

passenger protection for buses over 10,000 pounds is called compartmentalization. Compartmentalization, again as has been previously stated, provides for closely-spaced, high-back, highly-cushioned seats which basically confine the occupant into a small protected space. And I would submit that in all but catastrophic accidents, this system works very well. And in reality, those times that it doesn't work, a lap or shoulder belt probably wouldn't provide much additional safety. The Nebraska School Transportation Association's position, as well as that of Bellevue, on changing the current system of student occupation protected area, compartmentalization to that of lap-shoulder belts is consistent with the position held by the National Association of Pupil Transportation. And that is, that compartmentalization provides the safest means of transporting students on school buses and that method of protection should only be changed when adequate testing has been done. To date, the National Highway Traffic Safety Administration has not conducted a full range of dynamic testing and complete situational analysis to establish a safety system that will definitively enhance the current passenger crash protection for children on school buses. As a transportation director for 11 years, I have many concerns with requiring lap belts and shoulder belts on large school buses. In the interest of time, I'll just share three of my concerns. But first, I would like to assure you that if there is a safer way of transporting students on school buses, I'd be first in line to promote and enforce it. However, I don't think the lap/shoulder belts is that answer. My foremost concern is that of evacuating a bus in the event of a catastrophic accident or incident, such as a fire. Although this type of incident may seem far-fetched, I assure you that it is not. In 2014, there were hundreds of accidents and incidents throughout the nation where students had to be evacuated from a school bus following a fire, an accident, and even being stuck at a railroad crossing. Three years ago in Bellevue we had a fire on a school bus where the engine was in the rear of the bus, the farthest point away from the driver, who by the way is the only adult on the bus. My concern is that in a catastrophic accident or an incident involving a school bus, with 60 or more elementary-age students, which many of our buses in Bellevue do carry every day, we would be unable to evacuate the students in a timely manner. This situation would be magnified in the event that the driver was incapacitated, and again, the driver is the only adult on the bus, not to mention the fact that if the student was hanging upside down, the bus was upside down, and putting pressure on the seat belt. My second concern that, is that it's unreasonable to think that one driver can ensure every student is buckled in and wearing a seat/lap belt properly. And as with the safety device, improper wear can lead to more injuries than not using the device at all. Many kids will unknowingly wear the seat belt improperly, some will knowingly wear it improperly, and some will not wear it at all because seat backs on school buses must be 24 inches high--the back of the seat belt 24 inches high--due to compartmentalization. The driver is not able to see any of the children except for the students that are sitting directly to the right and behind the driver. So they would never be able to notice if a student was actually wearing a seat belt or wearing it properly. Two weeks ago I surveyed my drivers, many of whom currently drive smaller buses, where lap/shoulder belts are required, to get their thoughts, pro or con, on this issue. One of their collective biggest concerns is how do you enforce it? They shared that they routinely have to pull the bus

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over when they see a child that is out of the seat. That's only with six or ten children on the bus. Now, you can imagine if you had 65 or more students on the bus having to pull the bus over to make sure the students were seated. And I know my time's up, so I'll be quick in my last point, and that is cost. Of course, you can never put a price on a life of even one child, but cost does have to be considered. And I think it's important to share this because I've heard different numbers. I recently reached out to two bus manufacturers, there's really only three that sell buses in the United States and North America. And those...that price for a 84-passenger bus is an additional sixteen to eighteen thousand dollars for lap/shoulder belts. In addition to that outlay, there's additional cost to maintain those belts throughout the year. That's estimated to be about \$500 per bus per year. This requirement may actually in effect require a district to delay purchasing newer school buses and safer school buses in order to meet this higher price tag. When an average of 800 children are killed every year driving or riding in a private vehicle during the normal school travel times, and when an average 26 children are killed every year in the danger zone around the school bus, I believe our concerns and initiatives should be to provide a safer trip in these areas. And I have more, but I know I'm out of time so I'll stop there. Thank you. [LB373]

SENATOR SMITH: Okay. Thank you, Mr. Casey. Do we have questions from the committee? Senator Seiler. [LB373]

SENATOR SEILER: I'll ask you the same question I asked the other gentleman. Have you seen any statistics on injuries, the facial injuries, the chest injuries, spinal injuries? [LB373]

RICH CASEY: I have not. [LB373]

SENATOR SEILER: Thank you. [LB373]

RICH CASEY: I can speak for Bellevue. We've never had an injury with a student hitting the front of the bus in my 11 years in the position. [LB373]

SENATOR SEILER: Your bus drivers never hit the brakes and the kids hit the... [LB373]

RICH CASEY: Well, I'm sure they hit the brakes, but I've never had an injury of the student because they hit the seat in front of them or hit another student. [LB373]

SENATOR SEILER: Okay. [LB373]

SENATOR SMITH: Senator Davis. [LB373]

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SENATOR DAVIS: It seems to me when I was in school back in the dark ages we had a training session on getting out of a bus in an emergency situation. Do you still do that with...(inaudible)? [LB373]

RICH CASEY: Yes, sir, it's required by state law. Two times a year, every school district, every operator of a school bus must conduct that bus evacuation training. [LB373]

SENATOR DAVIS: So you talked about the fire that you had on your bus situation, can you elaborate a little bit on that? What took place then? [LB373]

RICH CASEY: The driver was driving, a student smelled smoke. The driver looked in the rearview mirror, saw the smoke coming from behind the bus, immediately pulled over, and the bus just basically engulfed in fire. The students, because it's a large bus, rear engine, has a front door entrance and has a side door entrance. The driver was able to get all the buses (sic) off. The bus went up pretty quickly, I think, as I recall, three years ago. The bus was totally engulfed, the rear of the bus in less than four minutes. [LB373]

SENATOR DAVIS: So, in your opinion then, that four-minute time frame is not enough time, or wouldn't be enough time to be sure everybody was unbuckled and off the bus. [LB373]

RICH CASEY: That would be my opinion and on large buses when you transport small children, kindergarten through third grade, typically for us in Bellevue, we do put three kids to a seat. So if you can imagine three students in that seat closely, I mean, they're going to be pretty tight in there, now they've got to try to get out of that seat belt with two others...for example, a child in the middle, two other children on either side trying to do the same thing. And then you've got 24 other seats...28 other seats, children trying to do the same thing. I just think it adds an additional time to get safely out the bus. [LB373]

SENATOR DAVIS: How many buses do you operate, just following up on Mr. Friesen...Senator Friesen's question of the last... [LB373]

RICH CASEY: We have 86 buses, 38 are large buses. Most of them are 84 passenger. [LB373]

SENATOR DAVIS: So, to retrofit would be quite costly for you then. It would be over a million dollars. [LB373]

RICH CASEY: It would be extremely costly, yes, sir. [LB373]

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SENATOR DAVIS: Okay. Thank you. [LB373]

SENATOR SMITH: Senator Murante. [LB373]

SENATOR MURANTE: Thanks again for coming down. So I'm going to follow up just a little bit with where I was going with Mr. Bonaiuto was, as well. So, the testimony we received today is that there is a national organization that is comprised of experts whose sole purpose in life is to determine what policies need to be enacted relative to school buses to ensure that they are as safe as possible and that national organization of experts has not recommended or mandated that school buses have seat belts if they're over 10,000 pounds. Is that correct? [LB373]

RICH CASEY: That is correct. [LB373]

SENATOR MURANTE: And is it because the evidence that they have does not determine...or has not yet determined conclusively that seat belts make buses that are over 10,000 pounds safer? [LB373]

RICH CASEY: As I understand it, that's correct. [LB373]

SENATOR MURANTE: Thank you. [LB373]

SENATOR SMITH: I see no further questions. Mr. Casey, thank you for your testimony. [LB373]

RICH CASEY: Thank you. [LB373]

SENATOR SMITH: Further opponents, those wishing to testify in opposition to LB373. Seeing none, we now move to those wishing to testify in a neutral capacity on LB373. Seeing none, Senator Hilkemann, you're welcome to close. [LB373]

SENATOR HILKEMANN: Well, thank you. It's been interesting conversation we've got here this afternoon. Let me try to close here with answering just a few of the questions that you have. Senator Murante, I would strongly urge you to look at the videos that we have included that will show you why NHTSA, and that's the organization that...the National Highway Transportation Safety Authority, is actually reconsidering their present position. And I'm going to talk just a little bit more about that. NHTSA is...if NHTSA didn't think that safety belts were safe, why would they allow them on schools in California and Florida and Texas and so forth. So it's

not...that's the first thing to consider on that. Secondly is that there's a reason that they have not mandated it, and the reason they have not mandated it is because of cost. And what they don't want is, we know school buses are safe. We don't want to have people afraid to put their kids on school buses. And so that's part of the reason why NHTSA has taken the position that they have. And so, this bill is not about that our school buses aren't safe, this is the bill that we can make our school buses safer. Senator Seiler, you've asked a good question about, you know, why don't we have the retrofit. Well, first of all, there's always been the concern about cost. But the other thing about it is that we don't always know the condition of some of the older buses that are there and as far as...there's maybe a life, there may be a life in the bus, but if you have to put the retrofit on it, it may affect the life. So that's part of the reason why most states...in fact, I don't think any state has required that...that expressly has required to go back to retrofitting of the buses. The University of Alabama study was referred to here just a little bit ago. Number one, I want...there's a couple of things. That's an old study and it was a study used with the old technology. It did not use the new technology that's there today. So, we heard quite the story of Benjamin. How many more Benjamins do we want to have, and I'm not saying that putting lap seat belts would save every child. That's not going to. But if we could...but the new study showing that at least 50 percent of the injuries could be prevented if these kids were in lap/shoulder belts, why not do it? And we've talked about training. We have mandatory evacuation training. Last time I rode on an airplane, we had a little kid sitting on there that they get 30 seconds, about, from the airline flight attendant tell them how to do it. Well, we with repeated training, those kids can learn how to use those seat belts as well, so. If there are no further questions, thank you so much for your time and listening to this very, I think, very important issue. Yes, Senators. [LB373]

SENATOR SMITH: I think Senator Brasch has a question for you. [LB373]

SENATOR BRASCH: Thank you again and this is very compelling. As I indicated before, in a vehicle I am a seat belt enthusiast. How long...and maybe this is in your testimony, but I didn't catch...how many years have those six states had this legislation? What is the longevity? Ten years... [LB373]

SENATOR HILKEMANN: You know, I don't know the longest. Texas just put it in a couple of years ago. [LB373]

SENATOR BRASCH: And it would be good to know, even in Texas or the other states, what number of injuries or fatalities have decreased? What are the results of having this in place? [LB373]

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SENATOR HILKEMANN: Senator, that's an excellent question. I will try to get you that information. [LB373]

SENATOR BRASCH: Okay. And I have no other questions. Thank you for bringing this forward. [LB373]

SENATOR SMITH: Senator Seiler. [LB373]

SENATOR SEILER: I just have one on retrofit. They...everybody...all the speakers have been pretty consistent about eight or ten to eleven years and they trade the bus off. Has any of the other states said any bus less than five years old has to be retrofitted? [LB373]

SENATOR HILKEMANN: I believe that that is part of...that was part of the bill in California. I can get that for you too. I think the... [LB373]

SENATOR SEILER: Would you, please? [LB373]

SENATOR HILKEMANN: Yes. I think, if I remember right, I think that they gave it like an eight year or a ten year window on that, but I will get that for you for each of the states. [LB373]

SENATOR SEILER: Thank you. [LB373]

SENATOR SMITH: Senator Davis. [LB373]

SENATOR DAVIS: Just one question. I think I know the answer, but I just would like to have it be part of the public record. This will apply to public and private schools covered, correct? [LB373]

SENATOR HILKEMANN: This applies to public schools. [LB373]

SENATOR DAVIS: Nothing of...so parochial schools would be exempt or private schools? Is that right? [LB373]

SENATOR HILKEMANN: That's correct. [LB373]

SENATOR SMITH: All right. Thank you, Senator Hilkemann. [LB373]

SENATOR HILKEMANN: Okay. [LB373]

SENATOR SMITH: And that concludes our hearing on LB373. We will now move to our hearing on LB517 and we're going to wait for just a moment while there's a transition that takes place here, make certain we give Senator Riepe our undivided attention. Senator Riepe, we're glad that you have your voice back this week. [LB373]

SENATOR RIEPE: Are you sure? (Laughter)

SENATOR SMITH: You're welcome to open on LB517.

SENATOR RIEPE: (Exhibits 1-4) Thank you, sir. Thank you, Chairman Smith and members of the Transportation and Telecommunications Committee for the opportunity to introduce LB517. I am Senator Merv Riepe, that's spelled Merv, M-e-r-v, Riepe, R-i-e-p-e, from District 12 which is Omaha, Millard, and Ralston. LB517 has been described as the ban on holding a cell phone while driving. And I want to say that driving a motor vehicle is not a fundamental right, but it is a privilege that is granted by the state. In 2010, texting while driving became illegal in the state of Nebraska as a secondary offense. In 2013, Nebraska recorded 653 vehicle crashes due to distracted driving. As of 2014, there have been 584 charges of texting while driving and 521 convictions. However, many will say it is difficult to enforce texting while driving as a secondary offense. Previous bills have looked to ban texting while driving, while LB517 goes further to alleviate some of the confusion regarding whether someone is texting, talking, or tweeting. Nebraska is one of four states in the nation that does not enforce texting while driving as a primary offense. Research has shown texting while driving is just as dangerous as drunken driving. LB517 requires the use of a cell phone while driving to be handsfree. It does not discriminate if you're texting, talking on the phone, or taking a selfie, or updating your Facebook profile. This means if law enforcement sees you with your phone in your hand, it is a violation. This enables the driver to use a Bluetooth, a cell phone mount or safely pulling off to the side of the road to make that oh-so-very-important phone call or text. How could Smartphones make people act so dumb? Smartphones have been...have screen locks and you have to swipe the screen, punch in your password just to do anything with your phone. Some questions...some question enforcement of texting bans. However, LB517 addresses those issues as the bill allows a law enforcement agent to pull someone over if they see an individual holding an electronic mobile device. With the enactment of LB517, law enforcement will have to update their protocols to pull someone over regarding cell phones and the evidence needed to prosecute. Personal responsibility and personal freedom are arguments made in opposition to these types of bills. However, texting while driving is illegal in the state of Nebraska. LB517 will give the tools to law enforcement to be able to enforce a primary offense for this type of distractive driving. Children are seeing parents text and drive, so why are we surprised that teenagers are doing it.

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Texting while driving is highly preventable. It may not be 100 percent, but DUI laws have greatly affected the way many people conduct themselves when it comes to drinking and driving. Additionally, it has now become a perfect storm as all ages, whether teenagers, adults, or seniors, are on the road with cell phones. The current law is not enough of a deterrent as a secondary offense. If you don't have a consequence for carelessness, then you can continue to be careless. A primary offense will change behaviors. It is my hope that we can save lives with this legislation. The people that are here to testify in favor of LB517 have the knowledge regarding the devastating effects texting or talking while driving can have on the driver, others on the road, and Nebraskans. We need to remember that driving a motor vehicle is not a fundamental right, but it's a privilege that is granted by the state. Thank you for your careful consideration of LB517, and I'd gladly accept any questions you may have. [LB517]

SENATOR SMITH: Thank you, Senator Riepe. Do we have questions from the committee?
Senator McCoy. [LB517]

SENATOR McCOY: Thank you, Chairman Smith, and thank you, Senator Riepe, for being with us this afternoon in bringing LB517 to us. You handed out right before your opening AM448, I wanted to give you the opportunity, if you could, to explain what the amendment you handed out does to the green copy of the bill, if you would, please. [LB517]

SENATOR RIEPE: The amendment was to clean up some of the language that we had from the auto dealers that had a concern about when it's built into the new cars. So, it's trying to say, no, this does not disqualify those new in-car types of legislation. We just need to clean that up. [LB517]

SENATOR McCOY: One of...you know, I've had the opportunity, I guess, this being my seventh session here in the Legislature to have been here when the original bill was passed in 2010, and then every year since that we've talked about it again. And one of the concerns I have, and the reason I asked you that question about the amendment, because my belief, although it may be prevalent more and I'm sure we'll hear some of this and certainly have been exacerbated by cell phone usage and texting, but really what we're talking about here is distracted driving primarily. [LB517]

SENATOR RIEPE: That is correct. [LB517]

SENATOR McCOY: It could be any sort of activities that could have existed clear back to the beginning days of the automobile, and what I fear is...and I've wondered if you could speak to this, when you change the amendment, changes from interactive to hand-held, the truth is you could have a display...my pickup has one that's as large as some TV screens and that can be just

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as distracting as a phone, whether it's hand-held or not. So how do you think we address that? I mean, I understand what your bill does, but to me it really speaks to a larger issue which is why I personally struggled with this particular subject matter because I'm not really sure that we're capturing the full breath of this situation by just saying, let's try to ban texting, although certainly there's no question that's been responsible for tragically sometime's loss of life. How do you think...I mean, is there...what are your thoughts on that as you researched this issue? [LB517]

SENATOR RIEPE: Thank you, Senator McCoy. My thought is that, yes, this is not going to resolve every issue, every problem, but because of the fact that an aging population of our seniors on the road, the fact that you have more people texting and using Smartphones, at least you can cut that down somewhat and you can take off a fairly good size of risk. It's fundamentally a matter of risk management and so you could take that down. Will it be perfect, no it won't because there's televisions and radios that can be distractions. There can be a lot of distractions and I'm not saying that we'll...well, certainly in this legislation we're not going to resolve all of it, but we think this is a current one, it's a big one, it's one that has been debated and needs to continue to be debated because of its seriousness. [LB517]

SENATOR McCOY: Let me ask another question and this will be my last one. Moving this from a secondary to a primary and talking about a hand-held, here's a very practical concern I just happen to know because although it hadn't no necessarily correlation to this I just had a handset that I use in my pickup that burned out over the noon hour. I was ordering another one on-line. Let's say you have a Bluetooth in a vehicle and you look down at your phone to dial a number, have a handset on, you're on the phone, then how...under your legislation, what at that point is that person then guilty of using...they had to dial the phone to use the hand-held, so would they not be committing a primary offense under your...if your bill were to pass? [LB517]

SENATOR RIEPE: Probably as you described it, yes, they would be because they are distracted, they are using it like it was...the fact that it was a temporary, need of repair. [LB517]

SENATOR McCOY: I just...I merely throw that out because I don't know how law enforcement would enforce that. Because if you're a law enforcement officer and you're a state trooper sitting on the side of the road and you see somebody going by and you think they're looking at their phone, that person may have a headset on, or may be using a Bluetooth through their vehicle, but they had to dial the phone. Now clearly, some vehicles are set up to where you can do autodial and otherwise, every system is different. I just throw that out to you as a very real hypothetical. They're some of the things that we've talked about in previous sessions when we discussed this issue because this isn't the first time. I'm not really sure how we get our arms around this issue. [LB517]

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SENATOR RIEPE: I know in my own vehicle I have a unit that mounts on my dash. I think it cost about five, twelve bucks, or something like that, so I can be handsfree, simply the fact that I put it there. Now, I think that's a different situation that if you have a...something that all of a sudden fails you that day, you resort to using your hands to make the call when you would not have otherwise done that, you see where I'm going with that. But in a case if we've got a situation, you know, law enforcement is in the situation of pulling you over, now if you can talk him out of it, good for you. [LB517]

SENATOR SMITH: Senator Garrett. [LB517]

SENATOR GARRETT: Thank you, Chairman. Thank you. I had the misfortune, I guess, of watching a young man on a motorcycle. The language in your bill about having to be holding the phone, holding the device. This young man was on Interstate 80, had his cell phone, I think, velcroed to his tank, and had one hand on the handlebar, and was either dialing or texting with his other hand, so he's not actually holding the phone. So, I was...Interstate 80, 75 miles an hour, and this guy is texting or doing something. So, you might want to look at your language that doesn't necessarily have to be holding the phone. [LB517]

SENATOR RIEPE: Hand-held. [LB517]

SENATOR GARRETT: Yeah, so. I was absolutely shocked to see that whizzing by me with the...looking down on his tank and plucking away. [LB517]

SENATOR RIEPE: Thank you. [LB517]

SENATOR SMITH: Senator Brasch. [LB517]

SENATOR BRASCH: Thank you for bringing this bill forward and I also have a few questions. When you keep using the reference to interactive, wireless communication device, and then we've mentioned a hand-held. I can access wireless communication through my steering wheel. I have a button I push and I can ask it to call the Capitol, or call...and then I can also ask my wireless device to read me any e-mails or text messages. And so today's technology is getting more and more wireless, but I do hold on to my steering wheel. (Laugh) So, is that...do we need to define android or something, you know, we're evolving, I believe, in wireless communication, and... [LB517]

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SENATOR RIEPE: It's a scenario that, Senator, that you've just described would be certainly clearly within the law, and regardless of whether it's an iPhone or an Android, I think is irrelevant. It's the device itself that if it's being held. [LB517]

SENATOR BRASCH: And specifically what you're trying to do is anyone working with the keyboard or how...maybe I don't understand what you're... [LB517]

SENATOR RIEPE: It's just anyone that would be holding the device, whether they're making a telephone call or whether they're texting. It's the matter of holding the device is the issue that we're trying to get away from because it's, what we consider or I consider, an excessive distraction. [LB517]

SENATOR BRASCH: What about holding a soda, a soft drink? [LB517]

SENATOR RIEPE: We didn't include that in the law. (Laughter) [LB517]

SENATOR BRASCH: I'm just curious that, you know, if we're talking...you know, or requiring both hands be on the wheel at all times, or...I'm just not certain how far we need to go. [LB517]

SENATOR RIEPE: I think it goes without saying, we need to try to work away from any and all distractions whether it's a matter of eating a cheeseburger or putting on lipstick or, you know, whatever is going on. We need to...we need to try to work away from them, so we're just trying to, I guess, whittle away on this and we happened to think that, you know, texting in particular is a dangerous feat because it's...it's a looking down as opposed to maybe looking in the rearview mirror to put on some eyebrow or something, not that I do that, but, you know. [LB517]

SENATOR BRASCH: So it's trying to refine on a driving habit that... [LB517]

SENATOR RIEPE: Trying to work on that, that's correct. [LB517]

SENATOR BRASCH: Okay. I don't have any other questions. Thank you. [LB517]

SENATOR SMITH: Senator Friesen. [LB517]

SENATOR FRIESEN: Thank you, Chairman Smith. Senator Riepe, while I was reading through the bill the other day, I went back and looked at the definition of the communication device, or whatever, and I'm not an attorney and I've just stayed at a Holiday Inn rarely, (laughter) but when

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I read that, it seemed to me that you could also say that that headset that I wear, the Bluetooth, would be a wireless communication device. Now, I know you're not holding it in your hand, but it says holding it up to your ear. I was just curious if you had looked at the legislation really closely to make sure you're not banning the use of a Bluetooth headset or... [LB517]

SENATOR RIEPE: Well, it was not our intent to, in any way to, you know, eliminate the use of Bluetooth and our sense was is we consider a Bluetooth as being a handsfree. [LB517]

SENATOR FRIESEN: Okay. I assumed that, but when I, in my ignorant position, just reading the definition and going back and putting it in here, it seemed like I could read into it that you were including that too, but just a comment. [LB517]

SENATOR RIEPE: Well, we will take a look at that and see if...because we need to avoid...it needs to be as clear as possible. It's one of the things about going from primary to secondary, you need to be pretty clear about what it does and doesn't mean. [LB517]

SENATOR FRIESEN: Maybe Senator Seiler can correct me on that. Thank you. [LB517]

SENATOR SMITH: Senator Murante. [LB517]

SENATOR MURANTE: Thank you. Thanks, Senator Riepe, for coming. I also have a question. You use a phrase that I wondered what led you to do it. In both instances of the subsections which prohibit the use of motor vehicles on any highway, you explicit...the phrase you use is holding an electronic device. So not using it, but if you're holding it, so you've got a clip that's attached to your dashboard, you can text all you want to under this bill as I read it. I mean, as long as you're just...unless it's physically in your hand, you can do whatever you want. You can have a 50 inch TV in front of you driving down the road as long as you're not holding on to it. This doesn't apply, is that correct? [LB517]

SENATOR RIEPE: That's correct. [LB517]

SENATOR MURANTE: And what led you to use the...that sort of...that language in particular? [LB517]

SENATOR RIEPE: Well, we had to put some parameters on it and that's where we thought we could, at this time, that we could do it. We're not trying to become, you know, George Orwell here in the sense of saying what you can or can't to that degree. [LB517]

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SENATOR MURANTE: Okay. [LB517]

SENATOR RIEPE: We're not trying to tell you what kind of pop you could drink or anything else. I mean, that's as far as we thought we could take it in this legislation. [LB517]

SENATOR MURANTE: Okay. All right. Thank you. [LB517]

SENATOR SMITH: Senator Davis. [LB517]

SENATOR DAVIS: Thank you, Senator Smith. A couple of questions. With the first one, Senator Riepe, and thank you for coming. On the chart it says PDO. Can you tell me what that stands for? [LB517]

SENATOR RIEPE: I'm sorry. I didn't keep a copy of it. [LB517]

SENATOR DAVIS: Fatal, injury, it talks about accidents, fatal, injury, then PDO, and then total. I just don't know what that PDO stands for. I wondered if you knew that. [LB517]

SENATOR RIEPE: You know, I don't. I don't right off, but I will get back to you on that. Thank you very much. [LB517]

SENATOR DAVIS: So my question is kind of along the same line as everyone else is, but I know a lot of people that still use old cell phones that don't have...you know, I've got a 1999 Suburban, for example, that doesn't have any of this stuff in it, which I bring to the Capitol when it's snowing, but they use the phone to the ear. Now, I certainly could admit that driving and using the cell phone is a distracting thing and I've found myself driving...missing my turn and a few things when I've involved in a conversation with my...either this way or with the cordless aspect of it. But I guess my concern is, we've got people that are using their phone, but just using it as a phone in this way and those people are going to be ticketed, whereas other people who are still as involved in a conversation are using their Bluetooth, or whatever, they're going to be exempt, which I think maybe have a higher impact on poor people who haven't upgraded. So, I guess, I'd like to have you comment on that a little bit, and you know the point Senator Brasch made, I think, is really valid because a lot of people are sitting there. I mean, I've done it myself. You're eating a hamburger, you're drinking a pop, how is that a bit different? [LB517]

SENATOR RIEPE: Well, on the first one, we did no profiling on terms of economic income and our fundamental piece is that, you know, if you're a distracted and a danger to other drivers, then you're subject to the consequences of being that persistent danger into the community. I'm not

going to...I probably can't comment on the cheeseburger and pop, but other than...you're right, it is another distraction. We just can't send another...legislatively a big enough blanket to cover, you know, every piece that's out there. We're just trying to chip off a piece that we think is a very manageable piece, we think it's a high-risk piece, we think it's a growing piece. You know, there was a recent incident in Omaha that a woman who dropped her cell phone, another woman was in the back of her car, had the trunk open, she reached out for the phone. Maybe you read it in the paper, and clipped the legs off of the lady and they found her in her trunk and she died like two days later. Now, you'll find a lot of tragic situations, but I think the risk of those, the exponential growth of cell phones will set the stage for even more and more problems if...and dangers as we go along. [LB517]

SENATOR DAVIS: And why do you think we need to move to a primary offense as opposed to a secondary offense? [LB517]

SENATOR RIEPE: Well, I think a secondary offense makes the bill impotent and I think that if you want to go after this, you have to go after it aggressively and that primarily in my conversations with some law enforcement people, their piece was, if you don't make it a primary, don't make it anything. It's already a secondary, I think that's out there in the state right now. So, we're just notching it up. [LB517]

SENATOR DAVIS: Okay. Thank you. [LB517]

SENATOR SMITH: Senator Riepe, just to kind of answer for you, Senator Davis, PDO, property damage only. So we have fatal, injury, property damage only and then totals on that chart. So, I'm certainly empathetic with...and appreciate you bringing this up. I know it's an issue. I mean, who hasn't been driving down the road on our way to the Legislature and home, I see it myself. I'm in a higher profile vehicle. I'm in a truck and so I, you know, someone's in the left-most lane and they're driving well under the speed limit and usually when I go around them I can look over there and they're on their phone texting. So I'm sensitive to that. But for law enforcement, they typically are in a lower profile vehicle and they're not able to see exactly what the person is doing. If I had my phone in my hand, they would not be able to see that I had my phone in my hand. And so when you make it a primary offense, I think that brings enforcement into the discussion. How do you see law enforcement handling a situation where they may not have direct view of the person's hands, but they suspect and they pull the person over. Set me through how you see that playing out. [LB517]

SENATOR RIEPE: Well, if they intend to make an arrest, they need to be...have it pretty clear and not just suspect that it might be a situation. If they're not in high profile and they don't have a

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clear perspective, they...you know, they're not able to then, you know, my opinion, make the arrest if they don't clearly see it and understand what's going on. [LB517]

SENATOR SMITH: Do you think that there's a possibility of them pulling someone over and for that purpose when they may think they've seen it, but they actually have not seen it? [LB517]

SENATOR RIEPE: I think there's always that possibility, Senator. [LB517]

SENATOR SMITH: And then we would go...then how would we handle that, the law enforcement officer would say, let me see your phone? Would they confiscate the phone? How far would we go? [LB517]

SENATOR RIEPE: They would not confiscate the phone as I see it. They could only, may take action if the person has the phone in his or her hand. [LB517]

SENATOR SMITH: Okay. [LB517]

SENATOR RIEPE: So, it's not perfect, it's intended to be a start. [LB517]

SENATOR SMITH: I understand. I know we certainly have a problem in our society and we need to keep our roads safe. It's a matter of how do we address this problem. I agree. Thank you for your introduction. Any further questions? Oh, Senator Davis. [LB517]

SENATOR DAVIS: Senator Riepe, just looking at the charts and Senator Friesen kind of pointed this out to me, but, you know, the Smartphone is really about five years old, would you say, but your data doesn't really show that there's a lot of significant change from 15 years ago. Do you have any comment on that in terms of the number of fatal accidents or even the number of injury accidents? [LB517]

SENATOR RIEPE: Well, I don't think it's limited just to the, you know, the mobile phones have been around for that period of time. I think it's the texting that has become much more engaging, or much more highly abused recently than the cell phones. So, I think some of that is, 15 years ago the cell phone was still around and being used, so. [LB517]

SENATOR DAVIS: Any idea when the 2014 data will be available? [LB517]

SENATOR RIEPE: No, I do not. [LB517]

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SENATOR DAVIS: Thank you, Senator. [LB517]

SENATOR RIEPE: I can find out and if it's of interest, we'll certainly make it available. [LB517]

SENATOR SMITH: I see no further questions. Thank you. Will you be around for closing?
[LB517]

SENATOR RIEPE: Yes, sir. [LB517]

SENATOR SMITH: All right. Thank you. [LB517]

SENATOR RIEPE: Thank you. [LB517]

SENATOR SMITH: We now move to proponents, those wishing to testify in support of LB517,
those in support of LB517. Good afternoon and welcome. [LB517]

LAURIE KLOSTERBOER: Good afternoon. Senator Smith and members of the Transportation and Telecommunications Committee, my name is Laurie Klosterboer, Laurie is spelled L-a-u-r-i-e, Klosterboer is K-l-o-s-t-e-r-b-o-e-r. I am with the Nebraska Safety Council. We're a nonprofit organization. Our mission is to save lives and prevent injuries through safety and wellness education. Over 11,000 individuals attend driver safety training through us each year. I'm here today to testify in support. I'd like to thank Senator Riepe for introducing this bill. These type of bills sometimes aren't very popular, even though the majority of us realize that talking on a cell phone while driving behind the wheel is not a safe act. I know that there's been a lot of comments and questions about this bill and so I'd like to address some of those that I've heard here. One of the concerns that we have with the bill, even though we do support the bill, is that we do want our legislators and the general public to understand that it's not just about holding the cell phone that's a distraction. There's the visual distraction, there's the manual distraction, but there's also the cognitive distraction and that's really what's going on in the mind when you're driving behind the wheel and you're also engaged in the conversation. And so, even though this is a great start, we do have some concerns because that's not being addressed. And to Senator McCoy's comments about all of the different kinds of systems that we have in our cars now, I think this is one of the things that we are seeing that the technology is moving so quickly and yet we have some of these issues that are emerging and how do we...how do we address that. We do know that there's 14 states that have banned hand-held cell phones. So we know that is going on in some of the states in the United States. As far as Senator Davis in asking about what's the difference between eating a hamburger, putting on makeup, shaving, possibly, I think you're right. It is a distraction. It's how many are doing that at one time. I think that you probably would

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agree that there's a lot of folks that are talking on their cell phone while they're driving. And that's also the complexity of the distraction, whereas eating may not be as complex as talking on the cell phone, being engaged in a conversation while you're driving. So, our concern is that with all of these systems coming into place, it's just...folks are doing more and more behind the wheel except for focusing on driving behind the wheel and being safe behind the wheel. Senator Smith, you had talked about the higher profile vehicles that you drive and law enforcement. We do know that there are some states that have gone to higher profile vehicles so that they can see what's going on in the vehicle. So that's a possible. We do know that our law enforcement do have trucks and do have some other higher profile vehicles. So, that may help alleviate that. I think I addressed all of the issues. We certainly...we support this bill that we do...but we do also understand that there are many distractions with the GPS systems and everything that the manufacturers are putting into cars, but we think this is a good start because it's so prevalent in our society. And with that, I would answer any questions that you might have. [LB517]

SENATOR SMITH: Senator Brasch. [LB517]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you for your testimony today as well. When I'm hearing this testimony what keeps coming to my mind is that we need more instruction on driving, protocol, focus, because there are all...the radio can be a distraction, a passenger in your car can be a distraction that...I don't know if it's driver's ed classes or parents or how we are trained to be responsible behind the wheel. [LB517]

LAURIE KLOSTERBOER: Well, we couldn't agree with you more. Unfortunately, people just don't think one day, I should take a refresher defense driving course and just kind of bone up on things that I've forgotten through the years, so we're doing our best to try and educate folks about all of these changes that are happening. I will tell you with regard to passengers, when it comes to teenagers being behind the wheel and having passengers in the car, that is very much a distraction. But when you're...when you've been driving a number of years, it is starting to show that maybe there's not that distraction if that person actually helps you with driving if you may be talking and they see something on the road, they would say something to you. So as far as adults and having passengers, not so much a distraction, definitely for the teen driver it is a distraction because of their inexperience behind the wheel. [LB517]

SENATOR BRASCH: And then I'm also wondering, the other states that have enacted not holding a cell phone while driving, have their statistics dramatically changed or not? Is there proof? When I've been in the past working in other states with colleagues that are from that state, for example, it was a matter of, okay, put your phone down now because, you know, it was like cat and mouse, you know, here. It wasn't...they weren't doing it. It was just they were working

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harder on not being caught at doing it. And I would think that would be a greater distraction.
[LB517]

LAURIE KLOSTERBOER: You know, I would have to check. I know that they're...I think in some states it's been somewhat mixed results. What they have found, though, is that they have had a decrease in people observed...decreases in people using cell phones because of the fact that it's a law. So, I would have to go and get more information specifically and I can do that, Senator.
[LB517]

SENATOR BRASCH: Very good. Thank you. [LB517]

LAURIE KLOSTERBOER: The other thing I would mention with Senator Davis, you were looking at the statistics from the Nebraska Office of Highway Safety. If you would talk to that office and the Department of Roads, I think they would tell you that they do think that this is something that's very underreported because if you're in a crash, you don't want to tell folks that you've been on the phone, you've been texting, those type of things. But they do feel that that's underreported. [LB517]

SENATOR SMITH: Further questions? Thank you. Thank you, Ms. Klosterboer, for your testimony. Appreciate what you do on the Nebraska Safety Council. [LB517]

LAURIE KLOSTERBOER: All right. Thank you. [LB517]

SENATOR SMITH: We continue with proponents, those wishing to testify in support of LB517. Proponents. Welcome. [LB517]

PATTY WOOD: (Exhibit 5) Thank you. Good afternoon, Chairman Smith and members of the Transportation and Telecommunications Committee. My name is Patty Wood, P-a-t-t-y W-o-o-d. I am the vice president of the Nebraska Trucking Association. I represent about 800 of our trucking companies across the state and our affiliate members. My testimony today is in support of LB517. In our industry we believe in safety for all on our road systems. LB517, as written, provides the same restrictions for hand-held devices for the driving public as our professional commercial drivers must already adhere to when on the road. We are held by federal law already. Professional drivers, commercial driver's license holders in interstate commerce, bus drivers, and drivers who transport placardable quantities of hazardous materials are already prohibited from texting and using hand-held mobile phones while operating their vehicles. For professional drivers, violations can result in fines and even driver disqualifications, but it also impacts a motor carrier's and/or driver's Safety Measurement System result. Statistics show that distracted driving

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is unsafe driving. Recent research shows that the odds of being involved in a safety-critical event, which is a crash, near-crash, or unintentional lane deviation, which we've all seen, are 23.2 times greater for drivers who text while driving than for those who do not. Texting drivers took their eyes off the road for an average of 4.6 seconds. At 55 miles per hour, this equates to a driver traveling the approximate length of a football field, without looking at the roadway. Drivers dialing a mobile phone while driving are six times greater in being involved in a safety-critical event for those who do not. The regulations in LB517 are somewhat similar to what we follow in our federal regulations, but they are good. They're practical safety rules for all drivers operating any vehicle, and that's why we as an industry are in support of LB517 in keeping our roads safer. Thank you. Any questions? [LB517]

SENATOR SMITH: Thank you, Ms. Wood. Do we have questions? Senator Davis. [LB517]

SENATOR DAVIS: Ms. Wood, can you tell me where you got your research? [LB517]

PATTY WOOD: The statistics? [LB517]

SENATOR DAVIS: Yes. [LB517]

PATTY WOOD: And that's actually from our FMCSA and they get it from the Department of Transportation. They're a part of Department of Transportation. [LB517]

SENATOR DAVIS: Thank you. [LB517]

PATTY WOOD: And that's the same agency that regulates us. [LB517]

SENATOR SMITH: I see no additional questions. Thank you, Ms. Wood. [LB517]

PATTY WOOD: Thank you. [LB517]

SENATOR SMITH: (Exhibits 6-8) We continue with proponents, those wishing to testify in support of LB517. Seeing no further proponents. We do have some letters to read into the record. We have Debbie Von Seggern on behalf of the Nebraska Emergency Medical Services Association; Dr. Richard Blatney, Sr., on behalf of the Nebraska Medical Association; and Gerald Stilmock on behalf of the Nebraska State Volunteer Firefighter's Association. We now move to opponents, those wishing to testify in opposition to LB517. Seeing no opponents, we

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now move to those wishing to testify in a neutral capacity. Seeing none. Senator Riepe, you're welcome to close on LB517. [LB517]

SENATOR RIEPE: Thank you, Senator Smith and committee members. The merits of lifesaving legislation has been denied for too long. It has been denied on the basis of not now, not yet, it violates civil rights, or allows law enforcement officers to profile individuals and groups of individuals. The failure to enact this legislation means more lives will be damaged, more Nebraskans injured or killed due to distracted drivers from cell phone use. These devastating events create a dual tragedy. One for those injured or their families, should they die from the event, and second, the driver who chooses to engage in this dangerous and destructive behavior behind the wheel, who will likely face traffic or criminal charges, personal financial liability, and a life of guilt and remorse. LB517 needs to advance as a primary offense and not rendered impotent as the secondary offense. Today, we have heard from citizens to the plan of recklessness and irresponsible texting and use of cell phones while operating motor vehicles. Thank you for your careful consideration and I am open for questions if you have regarding the creating a safer Nebraska. [LB517]

SENATOR SMITH: Final questions? Senator McCoy. [LB517]

SENATOR McCOY: Thank you, Chairman Smith, and thank you, Senator. I think in your opening you mentioned, Senator Riepe, the number of...the number of citations for the defendant that have been given out. I assume that's been since 2010. Do I have that correct? Would you mind reiterating those numbers? [LB517]

SENATOR RIEPE: As of 2014, there have been 584 charges of texting while driving and 521 convictions. That was as a secondary offense. [LB517]

SENATOR McCOY: Thank you. [LB517]

SENATOR SMITH: Senator Riepe, I don't see any further questions. Thank you for your closing and thank you for introducing LB517. [LB517]

SENATOR RIEPE: Thank you, Senators. [LB517]

SENATOR SMITH: That concludes hearings on LB517 and that concludes the hearings for today. [LB517]